THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.23826 of 2000

Dated: 24.10.2007

Between:

Hanuman Dass. .. Petitioner.

And

Assistant Commissioner of Endowments,
Twin Cities, Hyderabad.

.. Respondent.

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.23826 of 2000

ORDER:

This writ petition is filed by the petitioner, who is the Mahant of Naga Baba Jeera Gosha Mahal (Sri Dayal Das Mutt), for a writ of Certiorari to call for the records relating to the impugned proceedings Rc.No. D/3287/2000, dated 16.10.2000, issued by the respondent in proposing to constitute trustees-Dharmakarthala Mandali after 15 days, and to quash the same.

2. The facts, in brief, are that the subject Institution -Mutt Nagababa Jeera Gosha Mahal, which was earlier known as Dayal Dass Muttt (hereinafter for short referred to as 'the Mutt'), was originally established by one Sri Guru Mahant Narayana Dass. A temple known as Hanuman Temple, situated inside the said Mutt, is part and parcel of the Mutt and it is exclusively meant for the benefit of the disciples of the said Mutt. In respect of that temple, known as Hanuman Temple, which is attached to, adjacent to and appurtenant to the said Mutt, several proceedings were issued. After the demise of the founder of the said Mutt, the Deputy Commissioner of Endowments, by his proceedings L.Dis.No.1953/B/97, dated 12.01.1968, recognized one Sham Das, one of the Sishyas of the founder of the said Mutt as Mahant of the said Mutt and he was in continuous management of the said Mutt. Thereafter, the Assistant Commissioner of Endowments issued proceedings vide RC.No.D/2053/79, dated 03.04.1979, declaring the petitioner as Mahant of the said Mutt as Hereditary Trustee. It is also stated that no Trust Board at any point of time had been appointed to the said Mutt right from its inception i.e., from 1328 Fasli.

The petitioner, in his affidavit, further referred to several proceedings which conclusively establish that the subject Institution in question is out and out a Mutt which goes by the name temple, and

that the Hanuman temple situated inside the Mutt had no independent existence. It is also stated that as per Section 48 of the Act 30 of the A.P.Charitable and Hindu Religious Institutions & Endowments Act, 1987, (for short, 'the Act 30 of 1987'), which came into force on 28.05.1987 vide G.O.Ms.No.504, Revenue (Endowments-VI) Department, dated 25.05.1987, the provisions of Sections 18,19,20,21,22,25 and 28 shall not apply to Mutt or specific endowment attached thereto. The petitioner further stated that having regard to the provisions of Section 2(17), Section 2(23), Section 47 and Section 48 of the Act 30 of 1987, it is clear that no notification can be issued under Section 15 of the Act 30 of 1987 for appointing trustees, except those disciples of the Mutt, who embrace the faith of the cult of philosophy in the denominational Institution.

The main grievance of the petitioner is that he is the Mahant of the said Mutt, and as such, his rights as Mahant cannot be interfered with by any Trust Board as constituted under Section 15 of the Act 30 of 1987. Further, it is the grievance of the petitioner that, though the subject Institution in this writ petition is a Mutt and provisions of Sections 18 and 19 of the Act 30 of 1987 are not applicable to Mutt, the respondent has issued the notification impugned postulating the persons who are eligible and qualified under Sections 18 and 19 of the Act 30 of 1987 to submit their applications for being considered as Trustees-Dharmakartha, as such, the notification impugned is bad in law. Hence, this writ petition.

3. Despite the fact that the respondent is served with notice, he has not chosen to file any counter.

4. Heard the learned counsel for the petitioner and the learned Government Pleader for Endowments.

5. Section 2(17) of the Act 30 of 1987 defines Mutt, which reads as hereunder:

> " 'Mutt' means a Hindu Religious Institution presided over by a person, whose principal duty is to engage himself in the teaching and propagation of Hindu religion and philosophy or the teachings and philosophy of the denomination, sect or sampradaya to which the math belongs and in imparting religious instruction and training and rendering spiritual service or who exercises or claims to exercise spiritual headship over a body of disciples; and includes any place or places of religious worship, instruction or training which are appurtenant to the institution."

As the facts narrated by the petitioner, who is the Mahant of the said Mutt, are not disputed, this Court is unable to take any other view other than the one that the subject Institution in this writ petition is a Mutt and the issuance of the impugned notification, dated 16.10.2000, by the respondent calling for applications from the persons who are fully eligible and qualified under Sections 18 and 19 of the Act 30 of 1987 for being considered for appointment as Trustees-Dharmakartha is bad in law, and thus, liable to be set aside.

6. Accordingly, this writ petition is allowed, quashing the impugned notification, dated 16.10.2000, issued by the respondent. No order as to costs.

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(GOPALA KRISHNA TAMADA,J)

Dt.24.10.2007

v v